

Senate Bill 474

By: Senators Thomas of the 54th, Hill of the 4th, Orrock of the 36th, Murphy of the 27th, Thompson of the 33rd and others

AS PASSED

A BILL TO BE ENTITLED

AN ACT

To amend Title 27 of the Official Code of Georgia Annotated, relating to game and fish, so as to define certain terms; to specify a date certain for rules and regulations of the Board of Natural Resources used to establish game and fish criminal violations; to provide that persons under the age of 16 may hunt certain wildlife at certain times; to change certain provisions relating to seasons and bag limits; to regulate the exporting, farming, and selling of fresh-water turtles; to provide for rules and regulations; to provide that in general any person may take possession of native wildlife which has been killed by a motor vehicle; to provide exceptions and conditions; to require notification in the case of bear; to make certain findings and declarations; to regulate the use of fertility control of wildlife; to establish a permit application for applying fertility control to wildlife; to require a permit for applying fertility control to wildlife; to provide for rules and regulations; to provide for penalties; to change certain provisions relating to possessing weakfish; to amend Chapter 1 of Title 41 of the Official Code of Georgia Annotated, relating to general provisions relative to nuisances, so as to provide that hunting operations shall not be nuisances under certain conditions; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 27 of the Official Code of Georgia Annotated, relating to game and fish, is amended in Code Section 27-1-2, relating to definitions, by adding a new paragraph to read as follows:

"(29.2) 'Fresh-water turtle' means any turtle or its eggs within the families Chelydridae, Emydidae (excluding Malaclemys terrapin and Terrapene carolina), Kinosternidae, and Trionychidae."

SECTION 2.

Said title is further amended by revising Code Section 27-1-39, relating to rules and regulations of the Board of Natural Resources used to establish game and fish criminal violations, as follows:

"27-1-39.

Notwithstanding any other law to the contrary, for purposes of establishing criminal violations of the rules and regulations promulgated by the Board of Natural Resources as provided in this title, the terms 'rules and regulations' shall mean those rules and regulations of the Board of Natural Resources in force and effect on ~~January 1, 2008~~ January 1, 2010."

SECTION 3.

Said title is further amended by revising paragraph (2) of Code Section 27-3-4, relating to legal weapons for hunting wildlife generally, as follows:

"(2) During primitive weapon hunts or primitive weapons seasons, ~~longbows;~~

(A) Longbows, recurve bows, crossbows, compound bows, muzzleloading firearms of .44 caliber or larger, and muzzleloading shotguns of 20 gauge or larger loaded with single shot may be used; and

(B) Youth under 16 years of age may hunt deer with any firearm legal for hunting deer;"

SECTION 4.

Said title is further amended by revising paragraph (12) of subsection (b) of Code Section 27-3-15, relating to seasons and bag limits, as follows:

"(12) Bear Sept. 8 — Jan. 15 ~~± 2~~ ± 2"

SECTION 5.

Said title is further amended by adding a new Code section to read as follows:

"27-3-19.1.

(a) It shall be unlawful to export, farm, or sell any fresh-water turtle or part thereof except in accordance with rules and regulations adopted by the board.

(b) As the board deems appropriate for purposes of this Code section, it may promulgate such rules and regulations as are reasonable and necessary under sound wildlife management practices."

SECTION 6.

Said title is further amended by revising paragraph (3) of subsection (a) of Code Section 27-3-26, relating to hunting bears, restrictions, and penalties, as follows:

"(3) Possess or transport a freshly killed bear or bear part except during the open season for hunting and taking bears and except as provided in Code Section 27-3-28."

SECTION 7.

Said title is further amended by adding a new Code section to read as follows:

"27-3-28.

(a) Except as otherwise provided in this Code section, any person may lawfully possess native wildlife which has been accidentally killed by a motor vehicle. The following exceptions and conditions to this general rule shall apply:

(1) Any person taking possession of a bear accidentally killed by a motor vehicle shall notify the department or a law enforcement officer of the fact and location of the taking of possession and his or her name and address within 48 hours after taking possession of the bear; and

(2) This Code section shall not authorize any person to take possession of any animal of a species designated as a protected species under Article 5 of this chapter or under federal law.

(b) A law enforcement officer receiving a report of a person taking possession of a bear under paragraph (1) of subsection (a) of this Code section shall in turn transmit the reported information to the department within 48 hours after receipt of such information."

SECTION 8.

Said title is further amended by repealing and reserving Code Section 27-3-47, relating to collision with a deer by a motor vehicle, as follows:

"27-3-47.

~~Reserved. Any person who, while driving a motor vehicle, is involved in a collision with a deer shall, if the deer is killed, immediately notify the nearest conservation ranger or sheriff's office. If there exists a charitable institution or prison within the county which can make use of the carcass, the conservation ranger may deliver the carcass to the institution for consumption and shall obtain receipts therefor. If no such institution exists within the county and there is no cause to question the accidental killing of the deer, the conservation ranger may, at his discretion, award the carcass to the person who hit the deer, to be possessed and consumed only by the immediate family of such person. Receipts shall be acquired for a deer so awarded."~~

SECTION 9.

Said title is further amended in Chapter 3, relating to wildlife generally, by adding a new article to read as follows:

"ARTICLE 827-3-180.

The General Assembly recognizes that the hunting and taking of wildlife pursuant to this title are a valued cultural heritage consistent with the sound scientific principles of wildlife management and play an essential and effective role in the management of wildlife populations. The General Assembly further recognizes that the State of Georgia and its citizens derive substantial economic, recreational, and esthetic benefits from such activities. Therefore, the General Assembly finds and declares that it is in the public interest to ensure public health, safety, welfare, and conservation of the state's wildlife resources by strictly regulating in this state the use of fertility control on any wildlife.

27-3-181.

(a) As used in this article, the term 'fertility control' means any action that results in contraception, contragestation, or sterilization or produces a temporary or permanent state of infertility.

(b) It shall be unlawful to apply any fertility control to any wildlife, except in accordance with a wildlife fertility control permit issued under the provisions of this article and any rules or regulations adopted by the board.

(c) Nothing in this article shall prohibit or apply to the medically necessary treatment of sick or injured wildlife by properly licensed veterinarians. This article shall not limit employees of the department in the performance of their official duties.

27-3-182.

(a) Application for a wildlife fertility control permit shall be made on forms obtained from the department.

(b) The department may issue such a permit only if it has determined that the proposed activity is in the best interest of the wildlife resources. In making such a determination, the department may consider the following:

(1) Whether the proposed activity may preclude the use of hunting as the primary management tool;

(2) Whether the drug has been approved by the federal Food and Drug Administration;

(3) Whether there is a need for the information and data or a need to manage the target wildlife population to achieve the objectives sought by the applicant;

(4) Whether the proposed activity would duplicate sound scientific research previously accomplished;

(5) Whether the proposed activity is of reasonably sound design;

(6) Whether the proposed activity poses health or safety risks to humans and wildlife, including, but not limited to, wildlife species that may consume the target wildlife;

(7) Whether the proposed activity includes all necessary approvals, including, but not limited to, any federal or state agency approvals for specific or extra label use and any agency or institutional endorsement of the application; and

(8) Whether the applicant or the sponsor has documented that he or she has adequate funds available to implement the proposed activity.

(c) In the event that a determination has been made to revoke, suspend, deny, or refuse to renew any wildlife fertility control permit issued pursuant to this article, the applicant for such permit may appeal the determination according to the provisions stated in Code Section 27-2-25.

27-3-183.

The board is authorized to promulgate and adopt any rules and regulations, consistent with sound wildlife management practices and not inconsistent with law, as it deems necessary and appropriate to carry out the purposes of this article.

27-3-184.

(a) The department shall have the authority to prescribe the form, contents, and conditions for a wildlife fertility control permit and application as it deems necessary to carry out the purposes of this article.

(b) The department shall have the authority to issue, revoke, or deny any permit required by this article and pursuant to any rules and regulations adopted pursuant to this article.

(c) The department may, prior to a hearing and in accordance with Code Section 27-1-37, issue a cease and desist order or other appropriate order to any person who is violating any provision of this article or any regulation, permit, or license issued pursuant to this article.

(d) The department shall have the authority in accordance with Code Sections 27-1-21 and 27-1-37 to take possession of and dispose of any wildlife if it has reason to believe that fertility control has been administered to such wildlife in violation of this article.

27-3-185.

(a) Any person who violates any provision of this article shall be guilty of a misdemeanor of a high and aggravated nature and upon conviction shall be punished by a fine of not less than \$1,500.00 nor more than \$5,000.00, imprisonment for a period not exceeding 12 months, or both such fine and imprisonment.

(b) Any licenses or permits issued under this title to any person convicted of violating any provision of this article shall by operation of law be revoked and shall not be reissued for a period of three years. The department shall notify the person in writing of the revocation."

SECTION 10.

Said title is further amended by revising paragraph (2) of subsection (c) of Code Section 27-4-130.1, relating to open seasons, creel and possession limits, and minimum size limits for certain finfish species, as follows:

"(2) Weakfish All year ~~6~~ 1 13 inches"

SECTION 11.

Chapter 1 of Title 41 of the Official Code of Georgia Annotated, relating to general provisions relative to nuisances, is amended by adding a new Code section to read as follows:

"41-1-10.

(a) As used in this Code section, the term 'hunting operation' means an operation including any of the following:

(1) Lands, including the buildings and improvements thereon, which are used or which are intended for use as a hunting club, hunting preserve, or shooting preserve;

(2) Lands, including the buildings and improvements thereon, which are used or which are intended for use as a kennel, training facility, or field trial facility for the breeding, showing, raising or training of hunting and sporting dogs; or

(3) Clubs, associations, partnerships, sole proprietorships, corporations and other business and social entities whose activities or holdings include the lands and uses described in paragraphs (1) and (2) of this subsection.

(b) No hunting operation shall be or shall become a nuisance, either public or private, solely as a result of changed conditions in or around the locality of such hunting operation if the hunting operation has been in operation for at least one year since the date on which it commenced activity as a hunting operation. Subsequent physical expansion of the hunting operation shall not establish a new date of commencement of activity for purposes of this Code section.

(c) No hunting operation shall be subject to any action for civil or criminal liability, damages, abatement, or injunctive relief resulting from or relating to lawful hunting activities generated by the hunting operation if the hunting operation remains in compliance with Title 27 and the rules and regulations adopted by the Board of Natural Resources pursuant to Title 27.

193 **SECTION 12.**
194 This Act shall become effective upon its approval by the Governor or upon its becoming law
195 without such approval.

197 All laws and parts of laws in conflict with this Act are repealed.